101ST CONGRESS
1st Session
HOUSE OF REPRESENTATIVES
REPORT
101-109

HATE CRIME STATISTICS ACT

JUNE 23, 1989.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. BROOKS, from the Committee on the Judiciary, submitted the following

REPORT

together with

ADDITIONAL AND DISSENTING VIEWS

[To accompany H.R. 1048]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 1048) to provide for the acquisition and publication of data about crimes that manifest prejudice based on race, religion, homosexuality or heterosexuality, or ethnicity, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Hate Crime Statistics Act".

SEC. 2. ACQUISITION AND PUBLICATION OF DATA.

(a) IN GENERAL.—Under the authority of section 534 of title 28, United States Code, the Attorney General shall acquire, for calendar year 1991 through calendar year 1995, data on the incidence of criminal acts that manifest prejudice based on race, religion, homosexuality or heterosexuality, enthnicity, or such other characteristic as the Attorney General considers appropriate. The crimes with respect to which such data shall be acquired are as follows: homicide, assault, robbery, burglary, theft, arson, vandalism, trespass, threat, and such other crimes as the Attorney General considers appropriate.

(b) CONSTRUCTION.—Nothing in this Act creates a right for an individual to bring an action complaining of discrimination based on homosexuality.

H523-6.

(c) LIMITATION ON USE AND CONTENT OF DATA.—Data acquired under this Act shall be used only for research or statistical purposes and may not contain any information that may reveal the identity of an individual victim of a crime.

(d) ANNUAL SUMMARY.—The Attorney General shall publish an annual summary of the data acquired under this Act.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act for fiscal year 1991 through fiscal year 1996.

Amend the title so as to read:

A bill to provide for the acquisition and publication of data about crimes that manifest prejudice based on certain group characteristics.

PURPOSE OF THE LEGISLATION

H.R. 1048 requires the Department of Justice annually to collect statistics for a five year period on crimes that manifest prejudice based on race, religion, homosexuality or heterosexuality, ethnicity, or any other characteristic the Attorney General considers appropriate. Currently, only nine states collect data on hate crimes and there are no national statistics on such incidents. The Committee believes that accurate data would provide the basis for more effective law enforcement efforts in combatting these offenses.

COMMITTEE CONSIDERATION

H.R. 1048 derives from hate crimes legislation that passed the House in the 99th and 100th Congresses. In the 99th Congress, the Subcommittee held hearings on hate crimes [1] and, soon after, reported a bill, H.R. 2455, requiring the Department of Justice to collect and publish statistics on crimes motivated by racial, ethnic, or religious prejudice. At the Department of Justice's request, the Subcommittee deleted the requirement that the Justice Department use the Uniform Crime Report to collect information on hate crimes. The bill, instead gave the Attorney General the discretion to determine the most appropriate means for collecting and publishing such data. H.R. 2455 passed the House by voice vote [2] and was pending in the Senate when the 99th Congress adjourned.

In the 100th Congress, the Subcommittee reported H.R. 3193, a bill requiring the Department of Justice to collect and publish statistics on crimes which manifest prejudice based on race, religion, sexual orientation, or ethnicity. The bill was amended on the House floor to replace "sexual orientation," a definition considered by many to be overly broad, with "homosexuality or heterosexuality". The bill passed the House by a vote of 383 to 29 [3] and was pending in the Senate when the 100th Congress adjourned.

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[1] Hate Crime Statistics Act: Hearing on H.R. 1171 and H.R. 775 before the Subcomm. on Crim. Justice of the House Comm. on the Judiciary, 99th Cong., 1st Sess. (1985). In the 99th Congress, the Subcommittee also held two oversight hearings on violence against gays and lesbians and violence against Arab-Americans. See Anti-Gay Violence: Hearings before the Subcomm. on Crim. Justice of the House Comm. on the Judiciary, 99th Cong., 2d Sess. (1986), and Ethnically Motivated Violence Against Arab-Americans: Hearing before the Subcomm. on Crim. Justice of the House Comm. on the Judiciary, 99th Cong., 2d Sess. (1986).

[2] 132 Cong. Rec. H8045–47 (daily ed. Sept. 22, 1986).

[3] 133 Cong. Rec. H3389 (daily ed. May 18, 1988).

NEED FOR THE LEGISLATION

There are currently no national statistics collected on hate crimes. Anecdotal evidence in the press, however, indicates that there has been an increase in hate violence. Last fall, for example, the New York Times reported that membership in white supremacist groups, such as the White Aryan Resistance and the Ku Klux Klan, had reached new heights.[4] These groups are often held responsible for random attacks on Jews and minorities, including the slaying of an Ethiopian immigrant in Portland, Oregon this past November and the assault on an Asian man in Silver Spring, Maryland in April.[5] The Washington Times also reported that there has been a growing number of assaults on homosexuals in Washington, D.C.[6]

Because exact data on such crimes is unavailable, we do not know whether there are geographical patterns to these crimes, who the main perpetrators are, or what individuals are most susceptible to attack. The nine states which collect hate crimes data (Connecticut, Idaho, Illinois, Maryland, Minnesota, New Jersey, Oklahoma, Pennsylvania, and Virginia) have found such information indispensable to their law enforcement efforts. The police have used the data to focus on specific tensions or problems. Public officials have also used the information to promote new programs to improve community relations.[7]

A large number of groups have supported the federal collection of hate crimes data. The United States Commission on Civil Rights passed a resolution in February 1988 urging Congress to enact hate crimes legislation. In a letter to Chairman Brooks, the Department of Justice indicated that it had prosecuted a record number of hate crimes cases in the last fiscal year and acknowledged that "the collection of reliable data would contribute to our knowledge and awareness of such crimes." [8]

Among other groups supporting H.R. 1048 are the American Bar Association, thirty Attorneys General, the Police Commissioners of New York City, the Criminal Justice Statistics Organization, the National Institute Against Prejudice and Violence, the National Gay and Lesbian Task Force, the Anti-Defamation League of B'nai B'rith, the American Jewish Committee, the American Jewish Conference, various church organizations, the American Arab Anti-Discrimination Committee, Asian Americans for Equality, and the National Organization of Black Law Enforcement Executives.

While the legislation does not require that the Justice Department use the Uniform Crime Report (UCR), the Committee believes

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[4] Wilson, "Old and New Racist Groups Joining, League Says," N.Y. Times, Oct. 27, 1988, at A23.

[5] "Slaying of a Black in Portland Evokes Outrage on Racism," N.Y. Times, Nov. 16, 1988, at A22; Duggan, "3 Alleged 'Supremacists' Indicted in Racial Assault," Washington Post, Apr. 7, 1989, at B1.

[6] Seper, "Skinheads Go 'Gay-bashing,' Usually in Dupont Circle Area," Washington Times, December 30, 1988, at A1.

[7] See testimony of Joanne Anderson, Director, Community Relations, Maryland Commission on Human Rights in Hate Crime Statistics Act: Hearing on H.R. 1171 and H.R. 775 before the Subcom. on Crim. Justice of the House Comm. on the Judiciary, 99th Cong., 1st Sess. (1985), p. 85.

[8] Letter to Chairman Jack Brooks, June 8, 1989, from Carol Crawford, Assistant Attorney General, Department of Justice.

that the UCR is particularly adaptable to collecting hate crime statistics. The FBI has been collecting nationwide crime information through the UCR since 1930. In the last year, the UCR was revised to collect data on a case-by-case basis, providing information on relevant factors such as age, race, and gender of the victim. This format could readily encompass information on whether the crime was a hate crime.

SECTION-BY-SECTION ANALYSIS

Section 1

Section 1 provides that the short title of the legislation is the "Hate Crime Statistics Act".

Section 2

Section 2(a) requires the Attorney General, under the authority of section 534 of title 28, United States Code, to acquire data on crimes that manifest prejudice based on race, religion, homosexuality or heterosexuality, or ethnicity, or any other category which the Attorney General considers appropriate for calendar year 1991 through calendar year 1995. The Committee finds that there is an established pattern of hate violence against those groups enumerated in the bill. The Attorney General may require that data be collected for any other group upon a similar showing of hate violence against that group.

The crimes for which data will be collected are homicide, assault, robbery, burglary, theft, arson, vandalism, trespass, threat, and other crimes the Attorney General considers appropriate.

Section 2(b) provides that this Act does not give a person a right to bring a complaint of discrimination based on homosexuality.

Section 2(c) protects the privacy of crime victims by requiring that data collected under this Act may be used only for research and statistical purposes. The data may not contain information revealing the identity of an individual victim.

Section 2(d) requires that the Attorney General publish an annual summary of the data collected under this Act.

Section 3

Section 3 authorizes the appropriation of such sums as are necessary to carry out this Act for fiscal year 1991 through fiscal year 1996.

COMMITTEE ACTION

On June 20, 1989, by rollcall vote (34–1), a quorum being present, the Committee ordered the bill, H.R. 1048, reported favorably, with an amendment in the nature of a substitute and a change in the title.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Rep-

resentatives, are incorporated in the descriptive portions of this report.

STATEMENT OF BUDGET AUTHORITY AND TAX EXPENDITURES

In compliance with clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives, the Committee states that the bill does not provide new budget authority or new or increased tax expenditures and no statement under section 308(a)(1) of the Congressional Budget Act of 1974 is required.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 1048, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 21, 1989.

Hon. JACK BROOKS,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 1048, the Hate Crime Statisitcs Act, as ordered reported by the House Committee on the Judiciary, June 20, 1989.

H.R. 1048 would direct the Attorney General to collect and publish data about hate crimes—crimes that manifest prejudice based on race, religion, ethnicity, sexual orientation, or other characteristics the Attorney General considers appropriate—for calendar years 1991 to 1995. To fund this analysis, the bill authorizes the appropriation of such sums as may be necessary for fiscal years 1991 to 1996.

CBO cannot provide a precise estimate of the cost of H.R. 1048, because there are a number of ways to collect the required data, each with a different cost, and the bill does not specify how the Department of Justice should undertake the data collection. Information provided by the Bureau of Justice Statistics, the Federal Bureau of Investigation, the Community Relations Service indicates that data collection costs could range from less than $1 million annually to around $10 million annually.

One alternative would be conducting a survey similar to the Bureau of Justice Statistics' National Crime Survey. This would be one of the most accurate methods, but also the most expensive, because it would require collecting data from institutions not currently surveyed. Another possibility would be requiring local police departments to report incidents of hate crimes to federal authorities, who would then conduct a follow-up investigation. This could be done by including hate crimes on the uniform crime reports submitted by local police to the FBI. A less expensive method would be to require the Community Relations Service to compile data on hate crimes brought to their attention.

CBO does not expect that state and local governments would incur any significant costs if this bill were enacted, because none of

the data collection methods would require significant additional efforts by state or local authorities.

If you wish further details on this estimate, we would be pleased to provide them. The CBO staff contact is Michael Sieverts, who can be reached at 226–2860.

Sincerely,

ROBERT D. REISCHAUER,
Director.

OVERSIGHT FINDINGS OF COMMITTEE ON GOVERNMENT OPERATIONS

In accordance with clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee states that, with respect to the subject matter of the bill, the Committee on Government Operations did not submit to the Committee findings or recommendations based on investigations under clause 4(c)(2) of rule X of the Rules of the House of Representatives.

INFLATIONARY IMPACT STATEMENT

In compliance with clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee states that the bill will have no inflationary impact on prices and costs in the operation of the national economy.

COMMITTEE COST ESTIMATE

In compliance with clause 7(a), of rule XIII of the Rules of the House of Representatives, the Committee concurs in the estimate provided by the Congressional Budget Office and adopts that estimate as the cost estimate of the Committee.

ADDITIONAL VIEWS OF MESSRS. HYDE, McCOLLUM, COBLE, SLAUGHTER, SMITH OF TEXAS, SMITH OF MISSISSIPPI, DOUGLAS AND JAMES ON H.R. 1048

While we support the bill as an effective means of establishing the level of hate motivated violence against segments of our society, we believe that the measure does not go far enough and include violence by and against union members.

The amendment offered by Mr. James, which failed by a vote of 26–9, would have required statistics to be kept on crimes committed against union and non-union members, whether committed by workers, management, or union personnel.

Statistics provided in the past by various sources indicate that there have been thousands of incidents of union violence committed by and against union members. And these statistics indicate that this violence is not isolated to any one area of the country, but has occurred nationwide. We believe that this is a real problem. But each effort to address labor-related violence legislatively is met by criticism from our opponents who claim that these independently provided statistics are not reliable, and, therefore, that we are unable to prove our case with good statistics. The amendment would have simply provided the statistics either to prove or disprove the need for federal involvement in labor related violence.

While opponents to this amendment tried to label it anti-union, that was untrue. It is this amendment that would have allowed the collection of statistics on violence against union members, to give an accurate picture of labor related violence in the United States. The amendment would have provided for the collection of data based on uniform and objective criteria in order to remove anecdotal evidence from any debate regarding labor related violence. We must know of those instances in which—on one hand—acts of violence are committed by labor union members for the purpose of inducing an employer to pay higher wages or to bestow greater benefits—or on the other hand—acts of violence by employers or their agents intended to intimidate employees to abandon their bargaining demands. In either scenario, this senseless violence is unacceptable; it must not be tolerated; and we must have the statistical data available to determine if indeed there is a serious problem in this area that requires legislative attention.

According to the tenets of this legislation, the data acquired will only be used for research or statistical purposes; and may not contain any information that may reveal the identity of an individual victim of a crime. The statistics provided for by the James Amendment would in no way have been used to interfere with the legitimate right of workers to strike for legitimate benefits, such as higher wages. The statistics would have never been used to "chill" any legitimate labor activity during a labor dispute. Nor would these statistics have been used to pre-empt the traditional jurisdic-

tion of the states over offenses such as vandalism or aggravated assault.

We must be able to better understand what type of violent activity is occurring throughout the communities of our great Nation, and at whom this heinous activity is aimed. That is the laudable intent of this legislation.

The amendment would have improved the ability of Federal law enforcement personnel to apply federal criminal law equally as it related to union violence, without regard to who commits the crimes and without special exemptions and privileges for either management or labor. This legislation and these specific statistics would make America a safer place to live.

HENRY J. HYDE.
D. FRENCH SLAUGHTER, JR.
LARKIN SMITH.
CRAIG T. JAMES.
BILL MCCOLLUM.
HOWARD COBLE.
LAMAR S. SMITH.
CHUCK DOUGLAS.

DISSENTING VIEWS OF THE HONORABLE WILLIAM E. DANNEMEYER

I respectfully dissent from the Committee report on H.R. 1048, as amended, the Hate Crime Statistics Act. In my opinion, the concept of a "hate" crime is an innately ambiguous one and, for that reason, I believe the scope of this bill should be limited to collecting data on hate crimes motivated by race, color, religion and national origin—the categories recognized in the 1964 Civil Rights Act.

Every crime of violence is motivated by an irrational hatred of something—no crime is committed in a vacuum. Those who commit violent crimes solely to realize economic gain, for example, are motivated by an overt hatred of the social order. They are willing to disregard the basic rules which govern our society and which give form to our system of criminal justice. Drug addicts who rob and murder innocent people to further their drug habits are motivated by a hatred of society that is too odious for words. Rapists and child abusers undoubtedly hate women and children. Thus, it seems reasonable to assume that every crime is some form of hate crime.

This legislation conveys the entirely reasonable message that some hate crimes are worse than others. Indeed, for crimes manifesting prejudice on the basis of race, color, religion, and national origin, such an inference makes sense.

There are sound historical and philosophical reasons for restricting the number of suspect classes to those mentioned above. Homosexuality, which this legislation equates with race and religion, does not fit into that honorable tradition. I would like to quote the words of an eloquent civil rights activist, Dr. David Pence of the University of Minnesota, on this subject. Testifying last year before the U.S. Commission on Civil Rights, Pence addressed this issue and concluded that the civil rights movement in the 1980s has deviated from its original purposes of securing racial minorities the right to vote, to own a home, to hold a job, and to raise a family. Pence said:

> Homosexual behavior is a completely different category of activity which * * * cannot be seriously considered even an analogue of race or gender. The freedom train has been hijacked. The new agenda of the civil rights movement will not be written until the philosophical and social tenets of the sexual revolutionaries are exposed as inimical to the poor. While feminists cry for an end to patriarchy, the poor demand responsible fathers. While homosexuals cry for sexual license, the poor demand sexual discipline. While libertarians extol the victimless crime of drug use, the urban poor demand protection from the vio-

> lence and social havoc of the drug industry. The civil rights agenda of the next generation will be rooted in a moral consensus that stresses community protection, self-discipline, fatherhood, chastity, work and education. By restoring its moral foundation, the civil rights movement will no longer serve the ideologies of the last 20 years but will fulfill the democratic promise of America's first two centuries.

Last year during floor debate on this legislation, my distinguished colleague from Massachusetts, Mr. Frank, explained that this bill would not "put homosexuality on the same basis as religion, ethnicity, etc." If that is an accurate statement, then why not delete the words "homosexuality or heterosexuality" from Section 2 of this legislation and give the Attorney General discretion to gather this sort of data in the same manner as he may collect data on hate crimes committed against those who are, for example, elderly, retarded, or poor?

No, it seems that my suggestion meets strong resistance precisely because some want to equate homosexuality with race and religion. Those who want the Congress to enact homosexual rights legislation view this seemingly innocuous bill as an important milestone in that battle. They want to use the data collected pursuant to this bill—no matter how questionable—to establish the case for such legislation.

And what is the ultimate goal of homosexual rights legislation? According to one homosexual activist:

> Ideally, we would have straights register differences in sexual preferences the way they register different tastes for ice cream or sports games. * * * At least in the beginning, we are seeking public desensitization and nothing more. * * * You can forget about trying to persuade the masses that homosexuality is a good thing. But if only you can get them to think that it is just another thing, then your battle for legal and social rights is virtually won.

An essential component of this strategy is to equate homosexuality with the traditional, and legitimate, suspect classes. Because this legislation does exactly that, I dissent from the Committee report.

BILL DANNEMEYER.

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